



MINUTES OF THE REGULAR MEETING
BOARD OF ZONING APPEALS

August 4, 2016

A. Call to Order – 7:00 p.m.

1. Roll Call - the following members were present: D. Falcoski, M. Coulter; B. Seitz; L. Reibel and C. Crane. Also present was D. Phillips, Chief Building Inspector and L. Brown, Director of Planning and Building.
2. Pledge of Allegiance
3. Approval of minutes of July 7, 2016 meeting.

Mr. Falcoski moved to approve the minutes and Ms. Reibel seconded the motion. All Board members voted “aye”.

4. Affirmation/swearing in of witnesses.

B. Items of

B. Items of Public Hearing

1. Variance – Side Yard & Alley Setbacks – Fence – 240 Kenbrook Dr. (Chris & Rachel Pendry) **BZA 45-16**

Findings of fact:

1. This property is an existing lot of record in the R-10 district where the minimum front and rear yard requirement is 30 feet. Corner lots are permitted to reduce the adjacent yard to 20 feet. Fencing is not permitted between the right-of-way line and the building setback line. Fencing within 10 feet of the right-of-way cannot exceed a height of 2 feet 6 inches above the street grade.
2. The Kenbrook Drive and Foster Avenue rights-of-way are 50 feet, and there is a 16 foot unimproved alley to the north.
3. The applicant is proposing a 48 inch tall, scalloped fence from the northeast corner of the dwelling to the Foster Avenue right-of way, north along the Foster Avenue right-of-way to the northeast corner of the property, west along the alley right-of-way to the northwest corner of the property. The requested variances are 20 feet for side yard setback along the Foster Avenue right-of-way, and 30 feet for rear yard setback along the unimproved alley.

4. The grade from Foster Avenue rises to approximately 18 inches to 24 inches at the right-of-way above the street grade. The proposed fence will be approximately 66 inches to 72 inches above the Foster Avenue street grade. The requested variance for fence height is approximately 36 inches to 42 inches.

The following conclusions are presented:

1. The property is on a corner with additional setback requirements not typically required on other properties in the district. Fencing is typically not permitted in the front yard and corner lots have a practical difficulty with additional setback requirements limiting the amount of rear yard that could be fenced. An alley creates further difficulties by placing three sides of fencing restrictions upon the property. In this particular case, the lot is extremely narrow, the alley is unimproved, and the fencing is proposed on the back quarter of the property. The fencing within the rear setback is not substantial given the alley is unimproved. These factors mitigate the substantial nature of the setback variances requested.
2. The purpose of preserving intersection sight lines is to allow vehicle drivers to see vehicles, pedestrians, bicyclists, and other users of roads and sidewalks well before reaching an intersection. The proposed fence should not impact the sight lines at the Kenbrook Drive and Foster Avenue intersection since it will be set back far to the north of the intersection. These factors mitigate the substantial nature of the fence height variance request.
3. The essential character of the neighborhood should not be altered.
4. The delivery of governmental services should not be affected.

Discussion:

Ms. Crane asked where is the location of the right-of-way. Mr. Phillips replied using photographs of the property to illustrate where the right-of-way lines are located.

Christopher Pendry, 240 Kenbrook Drive, said he was a bit confused about the northern part of their back yard. He explained that the fence will be going in between two of the trees and the northern part will have to go through the middle of some ornamental grasses. Mr. Brown said the fence will have to remain on their property because the fence cannot be in the public right-of-way.

Mr. Coulter asked who placed the stakes in the yard and Rachel Pendry, 240 Kenbrook Drive stated that she hired a professional surveyor.

Ms. Crane asked if there was anyone that wanted to speak for or against this application.

Chris Kvinta, 778 Morning Street, said he walks past this property all the time and he has no problem with what has been proposed.

Motion:

Mr. Seitz moved:

THAT THE REQUEST BY CHRIS AND RACHEL PENDRY FOR A VARIANCE FROM CODE REQUIREMENTS FOR SETBACKS AND FENCE HEIGHT TO ERECT A FENCE AT 240 KENBROOK DRIVE, AS PER CASE NO. BZA 45-16, DRAWINGS NO. BZA 45-16 DATED JULY 8, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Falcoski seconded the motion. All members voted “aye” and the motion was approved.

2. Variance – Alley Setback – Fence – 778 Morning St. (Chris Kvinta) BZA 46-16

Findings of fact:

1. This property is an existing lot of record in the R-10 district where the minimum front yard requirement is 30 feet. Corner lots are permitted to reduce the adjacent yard to 20 feet. Fencing is not permitted between the right-of-way line and the building setback line.
2. The applicant is proposing to replace an existing 6 foot tall fence with a new 6 foot tall fence along the alley right-of-way. The requested variance is 20 feet.
3. The property is subject to, and the fence has been approved by, the Architectural Review Board.

The following conclusions are presented:

1. The property is on a corner with additional setback requirements not typically required on other properties in the district. Fencing is typically not permitted in the front yard and corner lots have a practical difficulty with additional setback requirements limiting the amount of rear yard that could be fenced. In this particular case, the alley is mostly unimproved with what appears to be limited access by another abutting property owner on a graveled portion of the alley. If this alley were the driveway of the property to the north, no variance would be required. These factors mitigate the substantial nature of the variance request.
2. The essential character of the neighborhood should not be substantially altered.
3. The delivery of governmental services should not be affected.

Discussion:

Chris Kvinta, 778 Morning Street, said that the original fence is about to fall over and needs to be replaced.

Ms. Crane asked if there was anyone that wanted to speak for or against this application.

Motion:

Mr. Reibel moved:

THAT THE REQUEST BY CHRIS KVINTA FOR A VARIANCE FROM CODE REQUIREMENTS FOR SIDE YARD SETBACK TO ERECT A FENCE AT 778 MORNING STREET, AS PER CASE NO. BZA 46-16, DRAWINGS NO. BZA 46-16 DATED JULY 11, 2016 BE APPROVED, BASED ON THE FINDINGS OF FACT AND CONCLUSIONS IN THE STAFF MEMO AND/OR PRESENTED AT THE MEETING.

Mr. Seitz seconded the motion. All members voted “aye” and the motion was approved.

C. Other

There was no other business to discuss.

D. Adjournment

Ms. Reibel moved to adjourn, seconded by Mr. Seitz. The meeting adjourned at 7:20 p.m.